

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

In the Matter of)
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FOX CHASE BANK
Hatboro, Pennsylvania
(OTS No. 02563)

Re: Order No. NE-05- 08

Dated: June 6, 2005

**STIPULATION AND CONSENT TO ISSUANCE OF AN ORDER
TO CEASE AND DESIST DIRECTING AFFIRMATIVE CORRECTIVE ACTION**

This Stipulation and Consent to Issuance of an Order to Cease and Desist Directing Affirmative Corrective Action ("Stipulation"), which concerns the accompanying and above-referenced Order to Cease and Desist Directing Affirmative Corrective Action (the "Order"), is submitted by **FOX CHASE BANK**, Hatboro, Pennsylvania (the "Bank", OTS No. 02563), to the Office of Thrift Supervision ("OTS"), which is acting through its Northeast Regional Director ("Regional Director").

WHEREAS, the OTS, based upon information derived from the exercise of its regulatory responsibilities, has informed the Bank that the OTS is of the opinion that grounds exist to initiate administrative proceedings against the Bank pursuant to 12 U.S.C. § 1818,¹ and

WHEREAS, the Bank, desiring to cooperate with the OTS and to avoid the time and expense of such administrative proceedings and, without admitting or denying that such grounds exist, but only admitting the statements and conclusions in Paragraph 1 below concerning Jurisdiction, hereby stipulates and agrees to the following terms:

1. Jurisdiction.

(a) The Bank is a "savings association" within the meaning of 12 U.S.C. § 1813(b), and 12 U.S.C. § 1462(4). Accordingly, the Bank is an "insured depository institution" as that term is defined in 12 U.S.C. § 1813(c).

(b) Pursuant to 12 U.S.C. § 1813(q), the OTS is the "appropriate Federal banking agency" with jurisdiction to maintain administrative enforcement proceedings against savings

¹ All references in this Stipulation and in the Order are to the United States Code as amended.

associations. Therefore, the Bank is subject to the authority of the OTS to initiate and maintain administrative cease-and-desist proceedings against it pursuant to 12 U.S.C. § 1818(b).

2. OTS Findings of Fact.

(a) The OTS finds that the Bank has engaged in unsafe or unsound lending practices and has violated various law and regulations to which it is subject, including 12 U.S.C. § 1817(a)(3) (requiring signed certifications on thrift financial reports) and 12 C.F.R. §§ 560.101 (real estate lending standards), 560.93 (lending limits), 560.160 (asset classifications and ALLL), 562.2 (requiring accurate regulatory reports), 563.180 (requiring accurate regulatory reports, including thrift financial reports), 563.43 (imposing restrictions on loans to insiders), and Part 564 (appraisal standards).

(b) The OTS further finds that the Bank, without adequate oversight by the Bank's board of directors, engaged in unsafe or unsound practices by making numerous poorly underwritten, speculative acquisition, development and/or construction loans and other higher risk loans resulting in an undue concentration of higher risk assets unsupported by appropriate levels of capital and qualified staff.

3. Consent.

(a) The Bank hereby consents to the issuance by the OTS of the Order.

(b) The Bank further agrees to comply with the terms of the Order upon its issuance. The Bank further stipulates and agrees that the Order complies with all requirements of law, as applicable.

4. Finality.

The Order is issued by the OTS under the authority of 12 U.S.C. § 1818(b). Upon the issuance of the Order by the OTS, acting by and through the undersigned Regional Director (which term also shall refer to the Regional Director's authorized designees), the Order shall be a final order, effective and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i).

5. Waivers.

The Bank hereby waives the following:

- (i) The right to be served with a written notice of the OTS's charges;
- (ii) The right to an administrative hearing of the OTS's charges concerning the basis for issuance of the Order;

- (iii) The right to seek judicial review of either the Order, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order; and
- (iv) Any and all claims against OTS, including its employees and agents, and any other governmental entity for the award of fees, costs, or expenses related to this OTS enforcement matter and/or the Order, whether arising under federal statutes (*e.g.*, the Equal Access to Justice Act, 5 U.S.C. § 504, or 28 U.S.C. § 2412), under common law, or otherwise.

6. Other Government Actions Not Affected.

The Bank acknowledges and agrees that its consent to the issuance of the Order does not release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of the Bank that arise pursuant to this action or otherwise, and that may be or have been brought by any other government entity other than the OTS. The Bank further acknowledges and understands that its stipulation and consent to issuance of the Order only settles contemplated cease-and-desist proceedings against the Bank, pursuant to 12 U.S.C. § 1818(b), that the OTS has indicated that it could have started based on its findings summarized at paragraph 2 of this Stipulation and further set out in a confidential Report of Examination issued to the Bank on March 17, 2005.

7. Miscellaneous.

- (a) The laws of the United States of America shall govern the construction and validity of this Stipulation and of the Order.
- (b) The Board of Directors of the Bank has duly authorized the Bank to execute this Stipulation and to consent the OTS's issuance of the Order. The Bank is submitting herewith a certified copy of said duly adopted board resolutions.
- (c) All references to the OTS in this Stipulation and the Order shall also mean any of the OTS's predecessors, successors, and assigns.
- (d) The section and paragraph headings in this Stipulation and the Order are for convenience only, and such headings shall not affect the interpretation of this Stipulation or the Order.

(f) This Stipulation and the Order shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Director, Regional Director, or other authorized representative.

FOX CHASE BANK

By: /S/
Roger D. Wolf
Chairman of the Board

By: /S/
Robert C. Albanese
Regional Director

Date: See the date in the caption hereof

UNITED STATES OF AMERICA
Before the
OFFICE OF THRIFT SUPERVISION

In the Matter of)

FOX CHASE BANK)
Hatboro, Pennsylvania)
(OTS No. 02563))

Order No. NE-05-08

Date: June 6, 2005

ORDER TO CEASE AND DESIST
DIRECTING AFFIRMATIVE CORRECTIVE ACTION

WHEREAS, **FOX CHASE BANK**, Hatboro, Pennsylvania (the "Bank") has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist ("Stipulation"); and

WHEREAS, the Bank, by its execution of the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist ("Order") pursuant to 12 U.S.C. § 1818(b);¹ and

WHEREAS, the Director of the Office of Thrift Supervision ("OTS") has delegated to the Regional Directors of the OTS the authority to issue consent orders on behalf of the OTS pursuant to provisions of Section 8 of Federal Deposit Insurance Act, 12 U.S.C. § 1818.

NOW, THEREFORE, IT IS ORDERED as follows:

PART I

1.01. Compliance With Laws and Regulations.

The Bank and its directors, officers, employees, and agents shall cease and desist from any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling or the aiding and abetting of any violation of the following laws and regulations:

- a. 12 C.F.R. § 560.101 (real estate lending standards);
- b. 12 C.F.R. § 560.93 (lending limits a/k/a loans-to-one-borrower limitations, "LTOB");
- c. 12 C.F.R. § 560.160 (asset classifications; allowance for loan and lease losses);
- d. 12 C.F.R. §§ 562.2 and 563.180 (accurate regulatory reports);
- e. 12 C.F.R. § 563.43 (restrictions on insider lending, see 12 C.F.R. Part 215);
- f. 12 C.F.R. § 563.180(b) (requiring accurate Thrift Financial Reports, "TFRs");
- g. 12 C.F.R. Part 564 (appraisal standards); and
- h. 12 U.S.C. § 1817(a)(3) (requiring certification of TFRs by an officer and directors).

¹ All references to the United States Code ("U.S.C.") are as amended, unless otherwise indicated.

1.02. Bank Management Enhancement.

(a) The Bank shall take all appropriate actions to promptly hire a qualified individual to fill, on a permanent basis, the currently vacant position of Chief Executive Officer/President. To be deemed “qualified” and eligible to be hired as the Bank’s Chief Executive Officer, the candidate, among other things, must: (i) have a demonstrated successful record of serving as a senior management official in the banking/thrift industry; and (ii) possess appropriate background, experience and skill sets to promote the safe and sound operation of the Bank in view of the Bank’s risk profile, the requirements of this Order, and the regulatory concerns identified in the Report of Examination that the OTS issued to the Bank on March 17, 2005 (“Report of Examination”).

(b) The Bank’s board of directors (“Board”) shall establish an Executive Search Committee of the Board no later than three (3) business days following the Effective Date of this Order.²

(c) Subparagraphs (c)(i) and (c)(ii) hereof specify requirements relative to the hiring of a qualified individual to fill, on a permanent basis, the currently vacant position of Chief Executive Officer/President.

- (i) Except as otherwise provided by Paragraph 1.02(c)(ii) (below), the Board shall adopt and implement a written plan, acceptable to the OTS, for the prompt hiring of a qualified individual to serve as Chief Executive Officer/President (the “Executive Recruitment Plan”). Except as otherwise provided by Paragraph 1.02(c)(ii) (below), by no later than ten (10) calendar days following the Effective Date hereof (or such later date as may be permitted in writing by the OTS), the Board shall retain a qualified executive recruitment firm, which shall be acceptable to the OTS, to assist it with the preparation and implementation of the Executive Recruitment Plan. The Executive Recruitment Plan must: (A) require the executive recruitment firm to seek out qualified candidates, evaluate the candidates, make recommendations, and provide the Executive Search Committee with its written recommendations concerning no fewer than three suitable and well-qualified candidates by August 15, 2005 (or such later date as may be permitted in writing by the OTS), and (B) require the Bank, pursuant to Board authorization, to select a candidate and to make a related written submission to the OTS (including a copy of the executive search firm’s written recommendation report), pursuant to 12 C.F.R. § 563.560; by no later than September 2, 2005 (or such later date as may be permitted in writing by the OTS). The Executive Recruitment Plan also must set out specified action items, assignments, and deadlines. Except as otherwise provided by Paragraph 1.02(c)(ii) (below), by no later than thirty (30) calendar days following the Effective Date of this Order (or such later date as may be permitted in writing by the OTS), the Bank shall submit its written Executive Recruitment Plan to the OTS for its review and non-objection. The Executive Search Committee shall maintain minutes of its meetings and conduct its business no less than two times per month until the Bank has hired a

² The Bank’s entire board of directors may serve as the Executive Search Committee if the Board so determines. Any such determination shall be reflected in the minutes of a duly called and held meeting of the Board.

qualified individual. Until the Bank has hired a qualified individual to serve as Chief Executive Officer, the Executive Search Committee shall report to the Board, at each Board meeting, updating the Board on the Committee's actions and progress.

- (ii) If, within ten (10) calendar days following the Effective Date of this Order, the Bank files a notice with the OTS, pursuant to 12 C.F.R. § 563.560, for the hiring of a proposed candidate to serve as the Bank's Chief Executive Officer/President (the "Early Section 563.560 Notice"), then the Paragraph 1.02(c)(i) requirements above (requiring retention of a qualified executive recruitment firm and the development and implementation of an acceptable Executive Recruitment Plan) shall be suspended until the OTS provides the Bank with written notification that either (A) it has disapproved the Early Section 563.560 Notice, or (B) it has suspended processing of the Early Section 563.560 Notice. If the OTS issues either such a disapproval notification or processing-suspension notification, then the requirements of Paragraph 1.02(c)(i) shall become reactivated and the time periods therein (including but not limited to the ten (10) calendar day period for retention of the executive recruitment firm) shall begin to run anew. If the OTS provides the Bank with written notification that it is not disapproving the Early Section 563.560, then the Paragraph 1.02(c)(i) requirements (including but not limited to the requirement to retain an executive recruitment firm) shall no longer be applicable.

(d) Except when a CEO-related notice is under review by the OTS in accordance with 12 C.F.R. §§ 563.550 – 563.590, by the last business day of each month until the Bank has hired a qualified individual to serve as Chief Executive Officer, the Bank's Board (or the Executive Search Committee) shall submit to the OTS a written status report detailing the Bank's efforts and progress in hiring a Chief Executive Officer.

(e) The Bank's actions related to the hiring of a Chief Executive Officer shall be consistent with the restrictions and requirements imposed by Paragraphs 2.02, 2.03 (referencing 12 C.F.R. §§ 563.550 -.590), and 2.04 of this Order.

1.03. Enhanced Board Oversight of Lending and Risk Exposure.

(a) The Bank's Board shall assess the Bank's capital position and exposure to "Higher Risk Loans" (as defined below) on a quarterly basis, within thirty (30) days following the end of each calendar quarter. The Board's review, which must be documented in the Board's minutes, shall include consideration of the Bank's capital levels, earnings, classified assets and allowance for loan and lease losses, as well as loan-related staffing levels. The Board shall ensure that the Bank effectively measures, monitors and controls the Bank's risk, maintains adequate liquidity, and complies with applicable capital requirements, including capital requirements established by this Order and the Business Plan required by Paragraph 1.04 hereof.

(b) Effective immediately and on a quarterly basis, the Bank's officers ("Management") shall prepare and submit to the Bank's Board for its review and evaluation a written report identifying all

loans granted during the quarter under report by the Bank as an exception to the Bank's written loan policies, including but not limited to underwriting standards and/or loan-to-value requirements. Management shall submit each such written report to the Board within thirty (30) days following the end of each calendar quarter. The Board shall ensure that all loans granted as exceptions to the Bank's loan policies do not exceed the limitations set forth in 12 C.F.R. § 560.101. The Board shall conduct its review of the quarterly reports required by this Paragraph 1.03 within thirty (30) days of receipt of the quarterly reports from Management. The Board's review of all loans granted as exceptions to the Bank's loan policies shall be fully documented in the appropriate Board minutes.

(c) For purposes of this Order, a "Higher Risk Loan" is any of the following: (i) a loan to finance real estate acquisition, development and/or construction ("ADC Loan"), (ii) a commercial loan whether or not secured by real estate, (iii) any loan made by the Bank where the Bank fails to demonstrate and document that the borrower's financial condition and likely future cash flow is expected to serve as the primary source of loan repayment, (iv) any loan or lease other than one for a personal, family, or household purpose or use, and (v) any first-lien residential mortgage loan that is not a "High-Prime-Quality" owner-occupied residential mortgage loan within the meaning of Paragraph 1.06(a)(ii) of this Order. After the Bank has hired a qualified person to serve as its Chief Executive Officer (as required by Paragraph 1.02 hereof), the OTS, upon consideration of a written request submitted by the Bank, may, in the exercise of its discretion and by written notice to the Bank, exclude one or more of the above-mentioned loan categories from the above-defined "Higher Risk Loan" category.

1.04. Business Plan and Budget.

(a) The Bank shall develop, adopt and implement an appropriate written 3-year Business Plan and Budget ("Business Plan") that is acceptable to the OTS. The Bank's Business Plan will serve as a blueprint to guide future operations of the Bank in a safe and sound manner. The objective and guiding principle of the Business Plan shall be a transition of the Bank's operation into activities that: (i) entail less risk, (ii) provide more stable and sustainable sources of core income, and (iii) are supported by capital levels commensurate with the risks of the Bank's operations and the composition of its balance sheet. In developing the Business Plan the Bank's Management and Board also should be guided by Section II.H of Appendix A to the Safety and Soundness Guidelines at 12 C.F.R. Part 570, which states that "institutions should establish and maintain a system that is commensurate with the institution's size and nature and scope of its operations to evaluate and monitor earnings and ensure that earnings are sufficient to maintain adequate capital and reserves."

(b) To be acceptable to the OTS, the Business Plan, at a minimum, must incorporate the following elements and considerations:

- (i) Budgeted, quarterly pro forma financial statement projections, including income statements, balance sheets (which must set out targeted regulatory capital ratios), and statements of cash flow.
- (ii) Target regulatory capital ratios, and the above-required pro forma financial statements shall include quarterly projections of the Bank's leverage and total risk based capital ratios. The target capital ratios shall exceed the ratios required for a "well capitalized" designation, pursuant to 12 C.F.R. § 565.4, and shall be commensurate with the risk level of the Bank's activities and balance sheet. In addition, the Business Plan's discussion of the target capital ratios shall, at a minimum, address and consider: (1) the Bank's current and future capital requirements; (2) risks related to the composition of the Bank's balance sheet (including consideration of the level of speculative acquisition, development and/or construction loans, loans in excess of supervisory loan-to-value limits, asset concentrations, fixed assets, and liquidity levels); (3) the risks related to the Bank's various types of lending activities; (4) the volume of adversely classified assets; (5) the Bank's anticipated level of retained earnings; and (6) the source and timing of additional funds to fulfill the future capital needs of the Bank.
- (iii) A detailed plan for reduction, by March 31, 2006, of: (A) the aggregate amount of Higher Risk Loans to an amount not to exceed 75% of the amount of the Bank's Tier 1 Capital, and (B) the aggregate amount of ADC Loans to an amount not to exceed 25% of the Bank's Tier 1 Capital.
- (iv) A detailed description of all activities, and risks attendant to such activities, that the Bank intends to engage in during the term of the Business Plan. In particular, for all loan programs involving Higher Risk Loans, including but not limited to ADC Loans, the Bank's Business Plan must clearly set forth the specific parameters of these higher risk lending programs, including but not limited to: (1) the establishment of a maximum exposure level for each category of Higher Risk Loan at thresholds substantially below the current exposure levels of the Bank; (2) quarterly targets for a reduction in ADC Loans and other Higher Risk Loans broken down by loan type (*i.e.*, commercial, commercial RE, residential RE, etc.) (3) a thorough explanation of the specific steps to be taken by the Bank on an ongoing basis to stratify the risk of the Higher Risk Loan portfolio; and (4) a detailed analysis of the appropriate level of capital necessary to support the higher risk lending activity (as required by subparagraph (b)(ii) above).
- (v) Details on future sources of revenue and reduction of overhead costs, as the Bank moves away from high-risk activities and assets.
- (vi) Details about the Bank's management and diversification of loan concentrations and other asset concentrations, which asset-concentration management shall be done in a safe and sound manner consistent with the OTS's diversification guidance at Section 211 of the Thrift Activities Handbook.
- (vii) The requirement that, on a quarterly basis, the Board review and evaluate the Bank's actual performance as compared to the projections in the Business Plan. Significant variances shall be analyzed and explained along with a specific description of the measures that have been implemented or proposed to correct or abate such variances,

including when necessary, adjustments to the Business Plan or of its underlying assumptions. All such reviews shall be documented in the minutes of the Board.

- (viii) The requirement that, within 45 days of each quarter-end, the Bank will submit to the OTS a written quarterly variance report (using quarter-end Thrift Financial Report ("TFR") data) that is based on the performance review required by item (v) above. Among other things, the quarterly variance report shall include an analysis of the change in the Bank's level of ADC loans and other Higher Risk Loans comparing actual to projected levels.
- (ix) Board review, no less than annually, of the Business Plan and the Bank's performance thereunder to determine whether revisions are warranted to reflect, among other things, changes in interest rates or market conditions and, if so, the Business Plan shall be revised accordingly. Any actions taken by the Board, including the review, shall be documented in the Board's minutes.
- (x) The requirement that, on an annual basis starting in 2006, the Bank will develop an amendment extending the Business Plan for an additional year such that the Bank's operations will be continuously guided by a 3-year Business Plan.
- (xi) An express written provision providing that any revisions to the Business Plan shall require prior written notice to, and an opportunity for comment by, the OTS.

(c) The Bank's Board must participate in the formulation of the Business Plan and must approve it by formal action at a duly called and held meeting.

(d) By August 31, 2005 (or such later date as may be permitted in writing by the OTS), the Bank shall submit to the OTS its proposed initial 3-year Business Plan. The submitted Business Plan must address the remainder of 2005, as well as calendar years 2006, 2007 and 2008.

(e) Within 30 days after receiving the Bank's proposed Business Plan, the OTS will provide written notice to the Bank of whether the Business Plan has been found acceptable or seek additional information (and/or revisions) regarding the plan. The Bank shall commence implementation of the Business Plan immediately upon its receipt from the OTS of written notice of the acceptability of the regulatorily approved Business Plan ("Approved Business Plan", which term includes any such plan that is subsequently amended with written approval of the OTS).

(f) The Bank will be deemed to be in violation of this Order if, without prior written clearance from the OTS: (i) it fails to reduce its risk profile in the manner contemplated by an Approved Business Plan by failing to undertake the actions contemplated by such Plan, (ii) if it engages in any material respect in operations not contemplated by an Approved Business Plan, (iii) if the Bank's asset size materially exceeds the amounts contemplated by an Approved Business Plan, or (iv) if the Bank's regulatory capital ratios (as reported in a TFR or as otherwise determined by the OTS) are materially below the projected levels set out in an Approved Business Plan.

(g) The Bank may, after prior written notice to and approval by the OTS, amend an Approved Business Plan to reflect a change in circumstance. Until such time as a proposed amendment has been approved, the Bank shall not engage in activities not contemplated by the then outstanding and effective Approved Business Plan.

1.05. Capital.

The Board and the Bank's management shall cause the Bank to take all appropriate actions to enhance the Bank's capital ratios so that such capital ratios meet or exceed the target capital ratios set out in the Approved Business Plan, which plan is contemplated by Paragraph 1.04 of this Order.

1.06. Restrictions on Lending.

(a) Until the restrictions of this Paragraph 1.06(a) have been terminated pursuant to Paragraph 1.06(c), and except with the prior written non-objection of the OTS or as otherwise permitted by Paragraph 1.06(b), the Bank **shall not** directly or indirectly:

- (i) Make, invest in, purchase, refinance, extend or otherwise modify or commit to make, invest in, purchase, refinance, extend or otherwise modify any ADC loan or any other Higher Risk Loan, **except** for prudently made residential construction mortgage loans having the following attributes: (1) the structure to be built is to be an owner-occupied one-to-four-family residence; (2) the loan-to-value ratio of the Bank's construction loan does not exceed 80 percent of the value of the collateral; and (3) the Bank has obtained documented existence of a firm commitment for end-loan financing; or
- (ii) Make, invest in, purchase, refinance, extend or otherwise modify or commit to make, invest in, purchase, refinance, extend or otherwise modify any **mortgage loan or consumer loan** **except** that the Bank may make and/or commit to make: (A) "High-Prime-Quality" (as defined herein) first-lien, amortizing owner-occupied residential mortgage loans, and (B) prudently underwritten, well-secured consumer loans (including but not limited to prudently underwritten home equity loans and end-user motor vehicle loans). For purposes of this Order, to be deemed a "High-Prime-Quality" residential mortgage loan, the borrower(s)/loan applicant(s) must demonstrate a high-level of creditworthiness whose financial history and other financial circumstances do NOT show **any** of the following credit risk characteristics:
 - 1) Two or more 30-day credit delinquencies during the 12-month period preceding loan application, or one or more 60-day delinquencies during the 24-month period preceding loan application;
 - 2) A loan-default-related judgment, foreclosure, repossession, or charge-off at any time during the 24-month period preceding loan application;
 - 3) Bankruptcy at any time during the 5 years preceding loan application;
 - 4) A credit bureau credit-risk score (e.g., a FICO score or equivalent) indicating a significant credit-management weakness or other relatively high probability of default; by way of example, a FICO

score of 660 or below generally would indicate such a credit weakness; or

- 5) Debt-service-to-income ratio of 50% or greater, or otherwise limited ability to cover family living expenses after deducting total monthly debt-service requirements from monthly income.

(b) Notwithstanding the restrictions at subparagraph (a)(ii) above, the Bank may make advances necessary to honor legally binding written loan commitments relative to non-conforming owner-occupied residential mortgage loans and/or consumer loans, existing on or before the Effective Date of this Order, to fund contractually enforceable loan commitments ("Commitments") or loans-in-process ("LIP"), provided that:

- (i) The Bank, prior to finalizing any Commitment or making any disbursement under an LIP, shall affirmatively determine that all conditions precedent to the Commitment or disbursement have been satisfied;
- (ii) The Bank must not violate any law or regulation applicable to it on account of the honoring of such Commitment or LIP; and
- (iii) All such Commitments and LIPs are identified on a written list of Commitments and LIPS that the Bank shall submit to the OTS by no later than five (5) business days from the Effective Date of this Order. Such list is required to identify: (A) the amount and type of Commitment or LIP, (B) the date the written Commitment was issued, (C) the identity of the borrower and the related Bank loan number, and (D) the schedule of the anticipated funding.

(c) By written notice to the Bank's Board, the OTS's Regional Director, in the exercise of his discretion, may terminate or relax the lending restrictions set out at Paragraph 1.06(a) hereof, but no such termination or alleviation is likely prior to the Bank's adoption and implementation of, and adherence to, an Approved Business Plan (within the meaning of Paragraph 1.04(e) hereof). To the extent not inconsistent with the limitations of this Paragraph 1.06, the Bank's lending operations shall be subject to, and must conform to, the lending operations described in the Approved Business Plan.

1.07. Enhancement of Loan Underwriting.

(a) No later than ninety (90) calendar days following the Effective Date of this Order (or such later date as may be permitted in writing by the OTS), the Board shall review, revise, and enhance the Bank's written loan underwriting policies and procedures for all real-estate-related lending contemplated by the Paragraph 1.04-required Business Plan ("Loan Underwriting Policy"), including but not limited to any ADC lending; however, revision and enhancement of the underwriting policy for homogenous owner-occupied, 1-4 family residential home loans is not mandatory. The Underwriting Policy shall be revised to conform to the provisions of 12 C.F.R.

§§ 560.100, 563.101 and 560.170 and the guidance provided in TAH Section 210. The revised and enhanced Underwriting Policy, at a minimum, shall:

- (i) Establish the Board's requirements for the types of loans that will be granted by the Bank, which requirements shall at a minimum include (A) limitations on the nature and types of projects to be considered; (B) establishment of the minimum amount of equity the borrower must invest in the project; (C) obtaining a feasibility study on each subdivision financing project or other large multi-unit financing project prior to making any loan commitment; (D) establishment of the amount and terms of any required presales of developed lots; (E) obtaining any mandatory regulatory approvals that are required prior to making the loan ; and (F) establishment of loan requirements specifically tailored to the needs and capabilities of the Bank, including consideration of the Bank's lines of business, complexity, and size, the expertise of the Bank's lending personnel, the liability structure of the Bank, profitability and competition factors, and the credit needs of the community;
- (ii) Detail the types and frequency of reports required by the Board to monitor the Bank's activities and compliance with its Underwriting Policy;
- (iii) Require at least an annual review of the Underwriting Policy by the Board to ensure that it remains appropriate in light of changes in market conditions and applicable laws and regulations;
- (iv) Clearly define the Bank's market area, which definition should be consistent with the Bank's business plan and Community Reinvestment Act Statement;
- (v) Establish requirements for the amount of borrower's equity, the financial condition and resources of the borrower and any guarantor, acceptable levels and types of collateral, loan to value ratios, and loan terms and pricing;
- (vi) Establish loan approval authority limits for each lending officer based on the officer's experience and tenure with the Bank, as well as limits for groups of officers, who may be given greater limits than an individual officer, and those limits above which Board approval is required;
- (vii) Require Bank personnel to conduct a thorough analysis and documentation of each loan's compliance with the Underwriting Policy prior to entering into a credit commitment;
- (viii) Require a thorough analysis and confirmation, prior to credit commitment, of all feasibility studies, pre-sales, builder takeout commitments, and any necessary county and/or state development or building permits;
- (ix) Establish a system of independent, ongoing credit monitoring and review to ensure periodic updated financials, collateral status, and other necessary information is obtained with appropriate communication to Management and to the Board; and
- (x) Consider the risks associated with concentrations of credit and establish specific diversification limits for all non-homogenous loans (A) as a percentage of the Bank's assets, (B) as a percentage of the Bank's capital, (C) by borrower, including all persons and entities with loans that would be required to be combined under the loans to one borrower regulations set forth in 12 C.F.R. § 560.93, (D) by loan type (speculative versus pre-sold), (E) by subdivision or development, (F) by borrower for each subdivision or development, and (G) by metropolitan area.

(b) The Bank's Board shall ensure the Bank's compliance with the Underwriting Policy and shall require such reports as are necessary from Management to satisfy this obligation and its fiduciary responsibility. A copy of the Underwriting Policy (together with the Board meeting minutes reflecting the Board's discussion and approval of the Underwriting Policy) shall be provided to the OTS for review and non-objection within ten (10) calendar days after the Board's approval.

1.08. Appraisals for Fair Market Valuation of Real Estate and Other Collateral.

By June 30, 2005 (or such later date as may be permitted in writing by the OTS), the Board – (i) shall review the Bank's existing written appraisal policies and procedures ("Appraisal Policies"), and (ii) shall revise, adopt and implement changes to such Appraisal Policies to cause such Appraisal Policies to conform fully to the provisions and requirements of 12 C.F.R. Part 564 and TAH Section 208 (concerning appraisals). Specifically, the Appraisal Policies, at a minimum, shall:

- (i) Require written appraisal reports to be obtained for all real-estate-related transactions;
- (ii) Require all appraisals to comply with the requirements of 12 C.F.R. Part 564;
- (iii) Require the use of only state certified or licensed appraisers and detail those transactions where state certified appraisers are required and those where state licensed appraisers may be used;
- (iv) Appropriately limit, in conformity with published regulatory guidance³ and subject to specified written guidelines, the use of and reliance upon appraisals with an "as if completed" valuation of property and/or improvements thereto;
- (v) Require appraisers to perform all home loan appraisals on, and consistent with, the forms and guidelines of either FANNIE MAE or FREDDIE MAC;
- (vi) Require the Board to review and approve all appraisers to be engaged by the Bank, which review shall focus on the qualifications of each appraiser, including but not limited to, (A) background; (B) education; (C) training; (D) experience; (E) licensing and certification; (F) any business relationships with any Bank affiliated party, including members of the Board, and (G) ensure compliance with the requirements and standards contained in 12 C.F.R. Part 564 and, thereafter, the Board shall annually review the performance of all approved appraisers consistent with the requirements of 12 C.F.R. § 564.8(c)(3);
- (vii) Require the written engagement of appraisers for the rendering of any and all appraisal services (other than with respect to such services relating to homogenous 1-4 family residential home loans secured/to be secured by owner-occupied property) and such written engagement shall specifically address or detail (A) the appraisal services requested, (B) any special conditions, requirements or issues to be addressed or considered by the appraiser, (C) the fee for such appraisal, (D) the timeframes for completion of the appraisal, and (E) the independence of the appraiser;

³ Some important sources of appraisal-related regulatory guidance are: OTS Thrift Activities Handbook Section 208 and OTS CEO Letter #134 dated January 29, 2001 (Statement on Real Estate Appraisal Standards).

- (viii) Prohibit the engagement of any appraiser to whom the Bank has loans outstanding, with whom Bank has any business relationship other than employing the individual to perform appraisals on behalf of the Bank, or who is related to or has any interest, direct or indirect, financial or otherwise, in the property, the transaction or the parties thereto;
- (ix) Require a qualified senior lending officer or a qualified retained external review appraiser to perform a documented review of the acceptability of the appraisal report(s) for every real-estate secured loan (other than loans secured by homogenous owner-occupied, 1-4 family residential home loans), which review shall be independent of and in addition to the review performed by the loan account manager or loan officer handling the loan and shall specifically focus on the sufficiency of the appraisal. The Board shall ensure that the senior lending officer has sufficient expertise to assure that all appraisals comply with the Bank's Appraisal Policy and with the requirements of 12 C.F.R. Part 564; and
- (x) Require that all appraisal services be rendered only by appraisers directly engaged and paid by Bank.

1.09. Lending Limits/Loans to One Borrower Compliance.

(a) The Bank shall not enter into any new commitment to fund any loan to any borrower that will result in the Bank's commitment to fund a loan or loans to the borrower in excess of the Bank's LTOB limitation unless the Bank has first (i) obtained a legally binding loan participation agreement from a third party participant sufficient to reduce Bank's funding obligation to an amount at or below its LTOB limit; and (ii) included in the commitment documents the appropriate funding restriction language, as required by the OTS's September 24, 1993 Chief Counsel Opinion (the "1993 LTOB Opinion"). Management and the Board shall take all steps necessary to ensure strict compliance with this provision.

(b) By June 30, 2005 (or such later date as may be permitted in writing by the OTS), the Board shall develop, adopt and implement such policies and procedures as necessary to ensure that the Bank complies with the LTOB limitations set forth in 12 C.F.R. § 560.93 ("LTOB Policies"). The LTOB Policies adopted by the Board shall, at a minimum, fully address all LTOB deficiencies noted in the OTS Report of Examination for the examination of the Bank started on November 1, 2004 (the "Report of Examination"). Among other things, the LTOB Policies shall prohibit the Bank from entering into commitments to loan funds in excess of the Bank's LTOB limit without (i) the appropriate funding restriction language in the loan commitment, as required by the OTS's 1993 LTOB Opinion, and (ii) having first obtained a legally binding loan participation agreement from a third party participant sufficient to reduce the Bank's funding obligation to an amount at or below its LTOB limit. The Bank's LTOB Policies also must prohibit the Bank from knowingly advancing loan proceeds in excess of the Bank's LTOB limit. The LTOB Policies also must require documentation in each loan file sufficient to demonstrate full compliance with all requirements of 12

C.F.R. § 560.93, including (i) information sufficient to identify any and all related persons, entities and interests of the borrower, and (ii) must establish an aggregate per borrower loan amount above which full Board approval must be obtained and documented prior to making any loan commitment.

(c) By July 15, 2005 (or such later date as may be permitted in writing by the OTS), the Bank shall submit a copy of the LTOB Policies required hereby to the OTS for review and non-objection.

1.10. Enhancement of Credit Administration, including Staffing.

(a) Not later than one hundred twenty (120) calendar days following the Effective Date of this Order, the Bank's Board shall adopt, and the Bank shall implement, prudent and detailed written policies and procedures governing credit administration (the "Credit Administration Policy"). The Credit Administration Policy shall conform to the requirements of: 12 C.F.R. §§ 560.170 and 560.101 (including the Interagency Guidelines for Real Estate Lending Policies at Appendix A thereof); and section II.C. of the Appendix A to the Safety and Soundness Standards at 12 C.F.R. Part 570. Among other things, the Credit Administration Policy must establish a system for loan file and record retention and loan administration that is designed to provide for all required records, filings and documents to be retained, reviewed, renewed and updated as appropriate.

(b) In furtherance of the above-stated policy objectives, the Credit Administrative Policy shall require that:

- (i) The Bank's loan officers shall have primary responsibility for account management relative to each of the Bank's Major Borrowers. For purposes of this Agreement, "Major Borrowers" are defined as those borrowers whose outstanding aggregate indebtedness to the Bank exceeds \$300,000, after excluding (A) any indebtedness that is secured by a first-lien mortgage on the borrower's primary residence, (B) up to \$50,000 of prudently underwritten home-equity indebtedness secured by a second mortgage on the borrower's primary residence, and/or (C) any indebtedness that is secured by a first-lien mortgage on one owner-occupied vacation/second home of the borrower;⁴
- (ii) The Bank's loan officers shall be required to use diligent and documented efforts to obtain updated and current financial information with respect to each Major Borrower and information on the condition of property securing any such loan. In evaluating compliance with this subparagraph 1.07(b)(ii) and subparagraph 1.07(b)(iii), OTS shall consider the extent to which the Bank has access to such information, through the loan documents or otherwise;
- (iii) No less than annually, each of the Bank's loan officers must use diligent and documented efforts, with respect to their assigned Major Borrowers, to (A) conduct annual credit reviews based on current/updated borrower financial information and updated written

⁴ To qualify for the above exclusion, the Bank, in granting the loan relative to the vacation/second home, shall have relied on the borrower's financial capacity to repay the loan and shall not have relied on rental income as a source of repayment for the debt.

analyses about loan collateral (inclusive of property cash flow analysis) and (B) submit to the Chief Lending Officer written reports that concern such analyses and assign a credit grade relative to each of the outstanding credit relationships such Major Borrowers maintain with the Bank; and

- (iv) An appropriate Bank officer or employee is assigned responsibility for ensuring that all appropriate lending-related documents are obtained and placed in the Bank's loan files in accordance with a tickler file system for monitoring missing and/or required documents.

(c) The Bank's Board shall timely take all appropriate actions to cause the Bank to have enough qualified credit administration staff to enable the Bank to engage in credit administration in a safe and sound manner.

(d) The Board, no later than one hundred twenty (120) days following the Effective Date of this Order, shall submit a copy of the Credit Administration Policy, adopted by it as required by subparagraph (a) hereof, to the OTS for non-objection. If, as a condition of regulatory non-objection, the OTS requires the Board to make revisions to the Credit Administrative Policy, the Board shall promptly make such changes as are necessary to satisfy OTS's written comments provided to the Board.

1.11. Internal Asset Review; Policies on Asset Quality and Classification.

(a) No later than five (5) business days following the Effective Date of this Order, the Bank, to the extent it has not previously done so, shall establish the loan loss provision recommended by the OTS in the Report of Examination. Thereafter, the Bank shall maintain an appropriate allowance for loan and lease losses conforming to the requirements of generally accepted accounting principles and the *Interagency Policy Statement on the Allowance for Loan and Lease Losses Methodologies and Documentation for Banks and Savings Institutions*, dated July 2, 2001 (66 Fed. Reg. 35629, published on July 6, 2001).

(b) By June 15, 2005 (or such later date as may be permitted in writing by the OTS), the Board shall adopt, and the Bank shall implement, a formal written internal asset review program to identify and classify problem assets. The Internal Asset Review Program must meet the requirements of: (i) 12 C.F.R. § 560.160, (ii) section II.G. of Appendix A to the Safety and Soundness Standards at 12 C.F.R. Part 570, and (iii) the *Interagency Policy Statement on the Allowance for Loan and Lease Losses Methodologies and Documentation for Banks and Savings Institutions*, dated July 2, 2001 (66 Fed. Reg. 35629, published on July 6, 2001),⁵ (iv) OTS Chief Executive Officer Memorandum No. 140 (CEO 140), and (v) the requirements specified in

⁵ The OTS distributed copies of the Interagency Policy Statement to savings institutions under cover of OTS CEO Memorandum 142, and a copy is available on the OTS's Internet site at <http://www.ots.treas.gov/docs/25142.pdf>

subparagraph (c) hereof (below). By June 30, 2005 (or such later date as may be permitted in writing by the OTS), the Bank shall submit to the OTS for review and non-objection copies of the Bank's Board-adopted Internal Asset Review Program (together with a copy of the Board meeting minutes regarding the adoption of such Program).

(c) Among other things, the Bank's Internal Asset Review Program must have the following characteristics:

- (i) It must be supervised by a qualified and designated Bank management official who: (a) has no independent loan origination or approval authority, (b) is independent of the appraisal preparation process and (c) reports directly to the Board or the Audit Committee concerning the program;
- (ii) It must ensure the proper identification of assets as "loss", "doubtful", "substandard" or "special mention" (collectively referred to as "Criticized Assets") and the reporting of each such asset to the Board at least monthly. Loan classifications shall be based on an assessment of all pertinent factors affecting the likelihood that the loan will be repaid according to its terms, and will not rely excessively on loan performance to date;
- (iii) It must provide for the maintenance of an adequate allowance for loan and lease losses ("ALLL") to reflect credit risk in the Bank's loan and lease portfolio;
- (iv) It must ensure the prompt charge-off of uncollectible loans, or portions of loans, in accordance with generally accepted accounting principles. See SFAS No. 5, No. 15 and No. 114;
- (v) It must require the timely and accurate reporting of the Criticized Assets, ALLL and charge-offs on the TFR;
- (vi) It must establish timeframes and procedures for reporting the results of all independent asset reviews to the Board for consideration; and
- (vii) It must require Bank Management to conduct quarterly reviews of classified assets and to prepare quarterly reports to the Board, to be submitted in writing within thirty (30) days following the end of each calendar quarter, regarding the status and resolution of each such classified asset.

(d) The Bank's Board shall conduct its review of the above-required quarterly asset-review reports required within thirty (30) days of receipt of the quarterly reports from Management. The Board shall fully document its asset-review/classification activities, pursuant to the Internal Asset Review Program, in the minutes of the appropriate Board meeting.

(e) No later than five (5) calendar days following the Effective Date of this Order (or such later date as may be permitted in writing by the OTS), the Bank shall engage a qualified independent third party (the "Asset Review Consultant") for the purpose of (i) conducting and completing by July 31, 2005, an independent asset review ("Independent Review") of the Bank's assets to be conducted in accordance with the requirements of CEO 140 and (ii) assisting the Bank with the development of

the Internal Asset Review Program required by this Order. Copies of the Independent Review shall be provided to the Board for review immediately after completion. The Board's review shall be fully detailed in the appropriate Board minutes. The Board shall submit a copy of the Independent Review and the Board meeting minutes reflecting the Board's consideration of the Independent Review to the OTS within ten (10) days after the date of the Board's review.

1.12. Asset Workout Policies; Asset Action Plans.

(a) By June 30, 2005 (or such later date as may be permitted in writing by the OTS), the Bank's Board, following consultation with a qualified consultant retained by the Bank, shall adopt and implement a comprehensive asset workout policy for the Bank. The workout policy shall provide for, at a minimum:

- (i) Establishment of an asset workout group whose responsibilities shall be: (A) to develop and implement asset action plans with respect to each asset referred to the workout group, and (B) to report to the Bank's Board on the status of workout efforts on a monthly basis;
- (ii) The identification of all assets that will be referred to the asset workout group, which shall include, at a minimum, all assets over \$500,000 that are reported as: (A) Criticized Assets in the above-mentioned Report of Examination and/or (B) identified internally as a Criticized Asset;
- (iii) A comprehensive analysis of all loan documents and related correspondence;
- (iv) A realistic analysis of: (A) the available cash flow to service the debt, (B) the fair market value of any collateral and (c) the ability to enforce any guarantees;
- (v) An assessment of potential legal issues relating to the workout; and
- (vi) Based on the above, the development, with the assistance of a qualified and independent workout consultant, of a written Asset Action Plan for the workout of each asset referred to the workout group, including a proposed timetable for each suggested action. Each Asset Action Plan shall, *inter alia*, identify the amount (if any) of any additional disbursements planned or contemplated for each asset, and contain a description of any contemplated modifications, extensions or renewals in connection with the asset.

(b) By June 30, 2005 (or such later date as may be permitted in writing by the OTS), the Board shall submit the policies and procedures required by this Paragraph to the OTS for review and non-objection.

1.13. Enhancement of the Board and Management; Corporate Governance.

(a) *Board Enhancement.* The Bank shall take on, by July 31, 2005 (or such later date as may be permitted in writing by the OTS), two new, qualified individuals, who are not members of the

Bank's Management,⁶ to serve as members of the Board. The Bank immediately shall take all appropriate actions to actively seek such new, qualified individuals for Board membership. To be qualified, the new proposed Board members, among other things, – (i) shall have background and experience concerning financial matters and/or financial institutions, and (ii) shall not be members of the Bank's Management. The Bank shall ensure that all of the Board's committees include representation by at least one of the new Board members. The minutes of the meetings of the Board shall fully document these efforts. No new individuals shall become members of the Bank's Board except in compliance with the requirements and limitations of Paragraph 2.02 of this Order (referencing 12 C.F.R. §§ 563.550 -.590).

(b) *Director Succession Plan Implementation.* The Bank, the Bank's Board, and each member of the Board shall take any and all appropriate actions to fully implement the written Director Succession Plan, which has been duly adopted by the Bank pursuant to resolutions of the Board on June 2, 2005; such plan and resolutions have been submitted to the OTS. Neither the Bank nor its Board may amend or otherwise modify such Director Succession Plan except with the prior written non-objection of the OTS's Regional Director. Any material failure by the Bank, its Board, or any of its directors to comply with the aforementioned Director Succession Plan (or any written amended plan found acceptable in writing by the OTS's Regional Director) shall be deemed to constitute a "violation" of Paragraph 1.13(b) of this Order.

(c) *Board Consideration of Information.* At each regular meeting of the Board, the Board shall be presented with verbal reports (supplemented with written materials as appropriate) by various members of the Bank's senior Management in addition to the President, including but not limited to the Bank's Chief Lending Officer, the Chief Financial Officer, and the Compliance Officer. The Board shall review reports prepared by third-party consultants retained by the Bank.

(d) *Board Executive Sessions.* Beginning with the first Board meeting following the Effective Date of this Order, each Board meeting will include an opportunity for directors who are not members of Management to meet in executive session (Executive Session). The Board minutes from each Board meeting shall include a proper record regarding the Executive Session.

(e) *Staffing Plan.* The Board shall conduct a review of the Bank's existing personnel and determine the Bank's current and future staffing needs based upon the Bank's current and projected operations. This review will be conducted utilizing the services of a qualified independent third

⁶ For purposes of this Order the term Management refers to officers of the Bank, as the term "officer" is defined at 12 C.F.R. §561.35.

party, who shall be acceptable to the OTS (as indicated by written notice from the Regional Director or his designee) to review all aspects of the Bank's operations, with particular emphasis on the origination of ADC loans and other Higher Risk Loans. The Staffing Plan shall include a training plan to ensure that employees receive the necessary training based upon their respective positions and responsibilities. The training part of the plan shall require mandatory attendance, specify the frequency of training, and include procedures and timeframes for updating training programs and materials and the method for delivering training; the Bank shall maintain adequate documentation and records of all training attended by each employee. By August 31, 2005, the independent third party shall prepare for the Board a staffing plan, including a management succession plan, to strengthen and improve the Bank's Management and operations and designed to meet the Bank's future needs ("Staffing Plan"). By September 30, 2005, the Board must: (i) adopt and commence implementation of the Bank's Staffing Plan, and (ii) submit it to the OTS for non-objection. The Staffing Plan must specifically address the Bank's Management and personnel deficiencies in the areas of loan underwriting/origination and loan administration, and these deficiencies must be remedied before the OTS will consider lifting the restrictions on lending set out at Paragraph 1.06 above.

(f) *Delineation of Lines of Authority.* Within thirty (30) calendar days following the Board's adoption of the Staffing Plan required by Paragraph 1.13(e) above, the Board shall: (i) review the Bank's existing organizational structure, and (ii) develop, adopt, and implement written policies and procedures establishing clear lines of authority, responsibility and reporting. No later than ten (10) calendar days following the Board's adoption of the aforesaid policies and procedures, the Bank shall submit such policies and procedures to the OTS for its review and non-objection. The Board shall ensure that the authority, responsibilities and reporting requirements of each position are clearly defined and communicated to each officer/employee. The Board shall ensure the coordination and oversight of all activities and operations of the Bank. The Board shall include procedures to ensure that all matters are presented to the Board for review and approval as appropriate. The Board must ensure that Management fully implements and addresses all matters as directed by the Board.

(g) *Business Continuity Plan.* By November 30, 2005, the Board shall develop and adopt, and the Bank shall implement a Business Continuity Plan. Also, by the aforesaid date, the Board shall submit to the OTS the Bank's Business Continuity Plan for regulatory review and non-objection.

1.14. Thrift Financial Reporting.

(a) *Special Review By Consultant.* By no later than thirty (30) calendar days following the Effective Date of this Order, the Bank's Board shall adopt appropriate actions based on its review of the written report and recommendations made by a consultant, who: (i) has/shall have been retained to conduct a thorough review of the Bank's information and data gathering system relative to the preparation of Thrift Financial Reports ("TFRs"), and (ii) has been required to prepare and submit to the Bank's Board a written report thereon (the "TFR-Related Report"), which report must set out recommendations and guidelines to facilitate accurate TFR preparation on a going-forward basis. By no later than forty-five (45) calendar days following the Effective Date of this Order, the Bank shall submit to the OTS for its review and non-objection a written description of the Board-adopted actions required hereunder together with a copy of the related Board minutes and of the consultant's TFR-Related Report.

(b) *Preparation of TFRs.* The Bank's TFRs shall be accurately prepared by and under the direction of the Bank's Chief Financial Officer, and the Chief Financial Officer shall be listed as the report preparer on the TFR.

(c) *Signing and Retention of TFR Records.* Prior to electronic submission of TFR data to the OTS, the Bank's Chief Financial Officer shall sign the TFR form's declaration/certification stating that such report is true and accurate to the best of said officer's knowledge and belief. Also prior to electronic submission of the TFR data to the OTS, the correctness of each such TFR shall be attested by the signatures of at least two of the Bank's directors (other than the Chief Financial Officer), with a declaration that the TFR has been examined by them and to the best of their knowledge and belief is true and correct. The Bank shall retain each such signed TFR form with its financial records.

(d) *Reconciliation of Audited Financial Statements to Year-End TFRs.* Beginning with the fiscal year ended December 31, 2004, the Bank shall cause its independent auditors to reconcile the audited financial statements to the Bank's year-end TFR each year in connection with its independent audit. The reconciliation schedule shall be conspicuously set forth in the independent audit report.

1.15. Expense Reimbursement; Review; Policies and Procedures.

(a) The Bank's internal audit department shall conduct a thorough review and issue a written report thereon with conclusions and recommendations ("Internal Audit Report"), concerning the following expenses incurred by the Bank during calendar-year 2004: (i) all charges made on the Bank's corporate credit cards by the Bank's President and other executive officers, and (ii) all

payments made by the Bank in response to expense-reimbursement requests made by the Bank's President and other executive officers. The Bank's internal auditor shall provide the Internal Audit Report to the Bank's Board and to the OTS by June 30, 2005 (or such later date as may be permitted in writing by the OTS).

(b) By June 30, 2005 (or such later date as may be permitted in writing by the OTS), the Bank, by action of its Board, shall develop, adopt and implement written policies and procedures for the payment or reimbursement of necessary Bank expenses incurred by Bank employees, officers, and/or members of the Bank's Board. The policies and procedures shall cover all such expenses, whether paid personally by the employee, officer or director or for which the employee, officer or director has obligated the Bank through the use of an Bank credit card or otherwise. At a minimum, such written policies and procedures shall:

- (i) Require the submission of a written travel/expense request or voucher to the appropriate individual(s) which identify the person or persons entertained, the business purpose of the expense, the date of the expense, and supporting documentation, including original receipts, before payment or reimbursement is made by the Bank;
- (ii) Define and establish the categories of expenses, which are reimbursable by the Bank and specify reasonable limitations for each category;
- (iii) Identify the appropriate individual(s) responsible for reviewing and approving the written travel/expense request or voucher for completeness and to determine if the expense is of a type reimbursable by the Bank. Approval by the Board shall be required before any payments or reimbursements are made for expenses incurred by executive officer and directors. Executive officer shall have the same meaning as defined in 12 C.F.R. Section 215.2(e)(1); and
- (iv) Require the periodic review by the Bank's Board of all payments or reimbursements for expenses ensuring that all payments were made in conformance with Bank policy. The results of each review shall be reflected in the minutes of the meeting. The Board shall seek reimbursement for any expenses paid which are not in conformance with the policy or expressly identify in the minutes the reason for the deviation.

1.16. Compensation, Bonuses, Bank Vehicles and Other Perks.

(a) The Bank shall not provide any directors, officers, or employees any bonuses, incentive compensation, or non-salary compensation (including but not limited to Bank-paid vehicles) except with the prior approval of the Bank's Board, which approval shall (i) conform to the OTS's conflicts-of-interest rule at 12 C.F.R. § 563.200, and (ii) shall be documented in the minutes of the appropriate Board meeting.

(b) The Board shall fully document its review and approval of all director and employee bonuses, incentive compensation, and other non-salary compensation in the appropriate Board

meeting minutes. The basis for any increase in compensation or award of a bonus, incentive compensation, and/or non-salary compensation shall be fully documented by the Board. The amount of such bonus, award, perk or other benefit should be reasonable and commensurate, as well as appropriate, with the documented basis for each such bonus, award, perk or other benefit.

(c) The Bank shall not make any new purchases or enter into any new leases of motor vehicles for the use of the Bank and/or its officers and employees.

(d) By June 30, 2005 (or such later date as may be permitted in writing by the OTS), the Board shall review all bonuses, incentive compensation, and non-salary compensation awarded since January 1, 2003, for compliance with the standards set out in this Paragraph 1.16. The Board shall (i) specifically address all instances of noncompliance with the above standards, and (ii) shall establish written procedures designed to ensure such failures do not recur. A copy of the Board meeting minutes containing the Board's review shall be provided to the OTS within ten (10) calendar days after the date of the Board meeting.

1.17. Code of Ethics.

(a) By June 30, 2005 (or such later date as may be permitted in writing by the OTS), the Bank's board of directors shall adopt a written code of ethics ("Code") that – (i) shall govern the conduct of the Bank's directors, officers and employees (collectively "Bank Insiders") and (ii) complies with the recommendations about ethics policies set forth in the OTS's Directors' Guide to Management Reports. At a minimum the Code must satisfy the requirements specified in subparagraphs (b) through (i) hereof (below).

(b) *Corporate Creed.* The Code shall set forth a broad statement of corporate policy on ethics.

(c) *Conflicts of Interest.* The Code shall:

- (i) Define what is meant by a conflict of interest, an apparent conflict of interest, and a potential conflict of interest (collectively referred to as "Conflicts");
- (ii) Mandate timely, comprehensive, and accurate disclosure of Conflicts to the Bank's board of directors or Audit Committee thereof;
- (iii) Prescribe a formal system for the identification, disclosure and resolution of Conflicts and the written documentation thereof; and
- (iv) Address (A) the acceptance of gifts, entertainment, favors and loans, (B) employment of relatives, (C) participation by a Bank Insider in any manner in any transaction or loan in which the individual, his/her spouse, child or any related interest has a financial or other interest, and (D) providing goods or services to the Bank.

(d) *Finances*. The Code shall:

- (i) State that improper handling of personal finances could undermine the credibility of the Bank Insider or the Bank and that a precarious financial position could be thought to influence actions or judgments made for the Bank;
- (ii) Set forth specific policies and procedures for reporting loans and other financial transactions of Bank Insiders; and
- (iii) Mandate the identification of material outside economic interests of all officers and directors at least annually.

(e) *Confidentiality*. The Code shall provide for the protection of confidential customer and bank information by, *inter alia*, (i) defining what is meant by confidential customer and bank information; and (ii) providing guidance on how such information must be guarded, and why abuses in this area can be harmful to the Bank, the employees, and the customers.

(f) *Outside Employment Activities*. The Code shall (i) state that each Bank Insider must manage his/her outside activities without compromising the individual or the Bank; and (ii) set out explicit restrictions and guidelines.

(g) *Protection of Bank Property*. The Code shall include guidelines for the protection of the Bank's property, including information, products and services.

(h) *Laws and Regulations*. The Code shall address applicable criminal statutes and financial institution regulations relating to conflicts of interest, including but not limited to 12 C.F.R. §§ 563.43 (incorporating provisions of 12 C.F.R. Part 215) and 563.200 (conflicts of interest).

(i) *Code Administration*. The Code shall provide methods for ensuring compliance, and policies and procedures for enforcing the Code, and such methods should be clearly described. The Code shall require an annual statement from all officers and directors of the Bank certifying their respective compliance with the Code and containing the disclosures required by the Code. A non-management member of the Bank's board of directors shall be responsible for maintaining all records, including the annual statements, regarding the matters governed by the policy.

1.18. Correction of Other Identified Deficiencies.

The Board and the Bank shall promptly address and correct all matters identified in the Matters Requiring Board Attention section of the Report of the Examination.

1.19. Board Compliance Committee.

(a) No later than five (5) calendar days following the Effective Date of this Order, the Board shall establish and appoint a Board committee (the "Regulatory Compliance Committee") comprised

of three or more directors, the majority of whom shall be Independent of Management,⁷ to monitor and coordinate the Bank's compliance with the provisions of this Order.

(b) By July 31, 2005 and thereafter within 30 days after the end of each calendar quarter, the Regulatory Compliance Committee shall submit a written progress report to the Board detailing the actions taken to comply with each provision of this Order and the results of those actions.

(c) By August 15, 2005 and thereafter within 45 days after the end of each calendar quarter, the Board shall submit to the OTS: (i) a copy of the Regulatory Compliance Committee's quarterly progress report required by the foregoing subparagraph, with any additional comments made by the Board, to the OTS, and (ii) a written certification that each director has reviewed the report.

PART II

2.01. Restriction on Asset Growth.

Except with the prior written approval/non-objection of the OTS and until the restrictions of this Paragraph 2.01 are lifted, the Bank is prohibited from having any asset growth other than limited asset growth in an amount not to exceed net interest credited on deposit liabilities, as determined on a quarter-end basis. In view of the foregoing, at each quarter-end the Bank's Total Assets must not exceed the sum of (i) the Bank's Total Assets (as reported on line SC60 of its prior TFR) and (ii) the amount of the Bank's deposit-related interest expense reported on line SO215 of its most recent TFR. (See OTS Regulatory Bulletin 3b.)

2.02. Board and Management Changes.

The Bank shall be and is subject to the requirements and limitations set out in Subpart H of Part 563 of the OTS's regulations (12 C.F.R. §§ 563.550 - .590). Without limitation on such requirements and limitations, this means, among other things, that, except as otherwise permitted by 12 C.F.R. § 563.590, (i) the Bank must notify the OTS at least 30 days before adding or replacing any member of its Board, employing any person as a senior executive officer, or changing the responsibilities of any senior executive officer so that the person would assume a different senior executive officer position, and (ii) the proposed director or senior executive officer may not begin service except as permitted by 12 C.F.R. § 563.585 and 12 U.S.C. § 1831i.

⁷ As used in this Order, the phrase "Independent of Management" means that the person: (i) is not an officer, employee or consultant of the Bank, (ii) is not, either by blood or marriage, related to any existing Bank director, officer or their attorneys or consultants, (iii) does not currently have a business or professional relationship with any existing Bank director, officer or their attorneys or consultants and (iv) to the extent not inconsistent with the foregoing, meets the criteria set forth at 12 C.F.R. Part 363 and Appendix A thereof.

2.03. Compensation and Benefit Arrangements.

The Bank shall not enter into, renew, extend or revise any contractual arrangement related to compensation or benefits with any director or senior executive officer of the Bank unless the Bank first -- (i) provides a minimum of 30 days advance notice of the proposed transaction and (ii) receives a written notice of non-objection from the OTS. See OTS Thrift Activities Handbook § 310 (p. 310.11) and OTS Regulatory Bulletin 27b.

2.04. Severance and Indemnification Payments and Agreements to Make Such Payments.

The restrictions at 12 C.F.R. Part 359 are applicable to the Bank. Such restrictions concern the making of agreements (including employment agreements) with severance provisions, "golden parachute payments" and "prohibited indemnification payments". Without limitation on the generality of the foregoing, this means, *inter alia*, that the Bank shall not make or agree to make any "golden parachute payment", as that term is defined 12 U.S.C. § 1828(k) and in 12 C.F.R. Part 359, except as may be permitted by the aforesaid statutory provision and regulations. See 12 C.F.R. §§ 359.2 and 359.4.

2.05. Contracts Outside of the Ordinary Course of Business.

The Bank shall not enter into any third-party contracts outside of the normal course of business without the prior written non-objection of the OTS. To seek such non-objection the Bank shall provide 30 days advance written notice to the OTS of any such proposed contract. At a minimum, such notice shall set forth the Bank's reasons for seeking the contract and shall transmit a copy of the proposed contract. See Thrift Activities Handbook § 310 (p. 310.11 -12). The OTS reserve the right, *inter alia*, to shorten the 30-day notice period where, in the exercise of their discretion, they have determined that good cause has been shown therefor.

2.06. Brokered Deposit Restrictions.

The Bank shall not accept brokered deposits except in compliance with the provisions of section 29 of the Federal Deposit Insurance Act (12 U.S.C. § 1831f) as implemented by section 337.6 of the FDIC's regulations (12 C.F.R. § 337.6). The Bank shall -- (i) provide written notice to the OTS's Regional Director if the Bank requests the FDIC for a waiver of any of the restrictions imposed by 12 U.S.C. § 1831f, and (ii) shall provide the OTS with a copy of the FDIC's document indicating its disposition of any request for such a waiver.

PART III

3.01. Submissions to OTS.

Various provisions of this Order require the Bank to make submissions to OTS for its approval, non-objection or notice of acceptability. All such submissions shall be in written form, following appropriate due diligence, inquiry and satisfaction of the Bank's internal approval processes. Each such submission shall: (i) summarize the Bank's inquiry and due diligence efforts, (ii) identify the internal approval process (*e.g.*, Board or Board Committee approval) that has been satisfied, and (iii) otherwise comport with any applicable regulatory requirement governing such submissions. The original and a copy of each such submission shall be sent to the OTS as follows:

Martin J. Lavelle
Assistant Regional Director
Office of Thrift Supervision
Harborside Financial Center Plaza 5, Suite 1600
Jersey City, New Jersey 07311

3.02. Definitions.

All technical words or terms used in this Order for which meanings are not specified or otherwise provided by the provisions of this Order shall, insofar as applicable, have meanings as defined in Chapter V of Title 12 of the Code of Federal Regulations, the Home Owners' Loan Act ("HOLA"), the Federal Deposit Insurance Act ("FDIA"), OTS Memoranda or other published OTS guidance. Any such technical words or terms used in this Order and undefined in said Code of Federal Regulations, the HOLA, the FDIA, or OTS Memoranda/guidance shall have meanings that are in accordance with the best custom and usage in the savings and loan industry.

3.03. Successor Statutes, Regulations, Guidance, Amendments.

Reference in this Order to provisions of statutes, regulations, OTS Memoranda, and other published regulatory guidance shall be deemed to include references to all amendments to such provisions as have been made as of the Effective Date and references to successor provisions as they become applicable.

3.04. No Violations Authorized; OTS Not Restricted.

Nothing in this Order or the Stipulation shall be construed as: (a) allowing the Bank to violate any law, rule, regulation, or policy statement to which it is subject, or (b) restricting or estopping the OTS from taking any action(s) that it believes are appropriate in fulfilling the responsibilities placed

upon it by law including, without limitation, any type of supervisory, enforcement or other action that OTS determines to be appropriate, arising out of matters described in the Report of Examination, or based on other matters.

3.05. Relation to Prior Regulatory Actions.

The requirements, restrictions and other terms of this Order supersede the requirements, restrictions and other terms of – (i) the OTS Supervisory Directive dated November 5, 2004, (ii) the OTS Supervisory Directive dated March 16, 2005, and (iii) the OTS's troubled-condition restrictions letter dated January 14, 2005.

3.06. Time Limits; Effect of Headings; Separability Clause; Stipulation Incorporated

(a) Time limitations for compliance with the terms of this Order run from the Effective Date, unless otherwise noted. The OTS' Regional Director (or his designee), in the exercise of his discretion, may extend any of the deadlines set forth in the provisions of this Order by providing written notice to the Bank of any such extension.

(b) The section and paragraph headings herein are for convenience only and shall not affect the construction hereof.

(c) In case any provision in this Order is ruled to be invalid, illegal or unenforceable by the decision of any court of competent jurisdiction, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby, unless the Regional Director in his/her sole discretion determines otherwise.

(d) The Stipulation is made a part hereof and is incorporated herein by this reference.

3.07. Effective Date; Duration.

This Order is and shall become effective on the date it is issued, *i.e.*, the Effective Date as shown on the first page hereof. This Order (including the related Stipulation) shall remain in effect until terminated, modified or suspended, in writing by the OTS, acting through its Director, Regional Director or other authorized representative.

OFFICE OF THRIFT SUPERVISION

/S/

By: _____

Robert C. Albanese
Regional Director, Northeast Region